IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

FAO.No. 104 of 2007

AGAINST THE ORDER DATED 26/11/2003 IN IA.4120/03 IN OS.374/2003 of PRINCIPAL SUB COURT, PALAKKAD

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APPELLANT/PETITIONERS/PLAINTIFFS

1. PANKAJAKSHY, W/O.KANDUNNY,
EKKODE HOUSE, CHITTALI P.O., PERUNKUNNAM,
KUZHALMANNAM, ALATHUR TALUK, PALAKKAD DISTRICT.

2. ANANTHAKRISHNAN, S/O.KANDUNNY,
EKKODE HOUSE, CHITTALI P.O., PERUNKUNNAM,
KUZHALMANNAM, ALATHUR TALUK, PALAKKAD DISTRICT.

3. LATHA, W/O.DEVADAS,
AMBATHU HOUSE, PALLANCHATHANUR P.O.,
PALAKKAD DISTRICT.

4. SUDHA, W/O.SUKUMARAN,
KOUNGODE HOUSE, KANNAMBRA P.O., PALAKKAD.

5. ANITHA, W/O.HARIDAS,
KALARICKAL HOUSE, CHENGANIYOOR,
MATHUR, PALAKKAD.

6. SUNITHA, W/O.MOHANDAS,
POORATHAM HOUSE, THACHANADI, PALAKKAD.

BY ADV. SRI.P.R.VENKETESH

RESPONDENTS: DEFENDANTS

1. JAYARAMAN, S/O.SANKUNNY,
CHITAHLI P.O., PERUNGUNNAM,
PALAKKAD DISTRICT.

2. LEELAVATHI, W/O.GOPALAN,
THOTTAKKARA HOUSE, MUTHIKULANGARA P.O.,
PALAKKAD.

3. GOKULDAS, S/O.AMBIKA,
KOTTAKUNNATH KALAM, KUTHIAMPADAM,
MANKARA P.O., PALAKKAD.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL
SRI.BINOY VASUDEVAN

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

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C.M. APPLN. NO. 484 OF 2007
IN F.A.O. No. 104 OF 2007

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Dated this the 29th March, 2007

O R D E R

Sankaran, J:

This is an application to condone delay of 1072 days in filing the appeal . Appeal is filed against the order in I.A. 4120 of 2003 in O.S. 374 of 2003 on the file of the Sub Court, Palakkad . The application was filed for temporary injunction restraining the defendants from alienating the plaint schedule property and from committing any waste. Original Suit was filed by the appellants for partition. On 26.11.2003, the court below passed an order restraining the defendants from committing waste in the property. It is stated that the application was being posted on several occasions and no final order is passed in the application. The grievance of the appellant is that the court below has not granted an order of injunction restraining the defendants from alienating the property. The appellant could very well pray for granting such a relief in I.A. 4120 of 2003

in case that application is not finally disposed of.

2. Therefore, the appeal is unnecessary. We do not find any ground to entertain the appeal and to condone the delay. With liberty to the appellant to move I.A. 4120 of 2003 for passing final orders, this application is dismissed.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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KURIAN JOSEPH & K.T. SANKARAN, JJ.

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F.A.O. No. 104 OF 2007

.....

Dated this the 29th March, 2007

J U D G M E N T

Sankaran, J:

In view of dismissal of the application for condonation of delay, the appeal is also dismissed.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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KURIAN JOSEPH & K.T. SANKARAN, JJ.

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the appellant is that the court below has not granted an order of injunction restraining the defendants from alienating the property. The appellant could very well pray for granting such a relief in I.A. 4120 of 2003 in case that application was not finalised.

2. Therefore, the appeal is unnecessary. We do not find any ground to entertain the appeal and to condone the delay. With liberty to the appellant to move I.A. 4120 of 2003 for final orders, this application is dismissed.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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